

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

SONGBIRD TECH, LLC,

Plaintiff

v.

**SAMSUNG ELECTRONICS CO., LTD,
and SAMSUNG ELECTRONICS
AMERICA, INC.**

Defendants

Case No. 6:23-cv-00537

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Songbird Tech, LLC (“Plaintiff” or “Songbird”) hereby asserts the following claims for patent infringement against Samsung Electronics Co., Ltd and Samsung Electronics America, Inc. (collectively “Defendant” or “Samsung”), and alleges, on information and belief, as follows:

THE PARTIES

1. Songbird Tech, LLC is a limited liability company organized and existing under the laws of the State of Texas with a principal place of business in Waco, Texas.
2. Upon information and belief, Samsung Electronics Co., Ltd. is company organized and existing under the laws of the Republic of Korea, with a principal place of business at 129 Samseong-ro, Yeongtong-gu Gyeonggi-do 16677 Suwon-Shi, Republic of Korea (South).

3. Samsung Electronics Co., Ltd. operates a wholly owned subsidiary, Samsung Electronics America, Inc. (“SEA”), that has been registered to do business in the State of Texas and has been since at least June 10, 1996.

4. SEA is a New York corporation with its principal place of business at 85 Challenger Rd., Ridgefield Park, New Jersey 97660. SEA is a wholly-owned subsidiary of Samsung Electronics Co., Ltd. SEA may be served through its registered agent CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

5. Samsung Electronics Co., Ltd. exercises direction and control over the performance of SEA. Alternatively, Defendants form a joint business enterprise such that the performance by one Defendant is each attributable to the other Defendant.

6. Samsung has maintained regular and established places of business or offices and/or other facilities in Texas at least at 12100 Samsung Blvd., Austin, Texas 78754; 2800 Wells Branch Pkwy, Austin, TX 78728; 1301 East Lookout Drive, Richardson, Texas 75082; and 6635 Declaration Drive, Plano, TX 75023.

7. Samsung’s products are offered for sale through numerous mobile carriers in this judicial District, including, but not limited to Verizon stores at 2812 W Loop 340 Suite# H-12, Waco, TX 76711; 1820 S Valley Mills Dr, Waco, TX 7671; and 3590 Greenlawn Blvd Suite 103, Round Rock, TX 78664; T-Mobile Stores at 2448 W Loop 340 Suite 24a, Waco, TX 76711 and 208 Hewitt Dr Suite #200, Waco, TX 76712; and AT&T Stores at 4330 W Waco Dr, Waco, TX 76710; 2320 W Loop 340 #100A, Waco, TX 76711; and 1515 Hewitt Dr Ste A, Waco, TX 76712 (collectively, “Waco and Austin Carrier Stores”). On information and belief, Samsung products relevant to the allegations in this Complaint

have been sold and used at the Waco and Austin Carrier Stores, and are offered for sale at the Waco and Austin Carrier Stores.

8. Samsung has authorized sellers and sales representatives that offer and sell accused Samsung products relevant to this Complaint throughout the State of Texas, including in this District, and to consumers throughout this District, such as: Best Buy, 4627 S Jack Kultgen Expy, Waco, TX 76706 and 11066 Pecan Park Blvd Ste 300, Cedar Park, TX 78613.

JURISDICTION AND VENUE

9. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1391 and 1400.

10. Upon information and belief, Defendants are subject to personal jurisdiction of this Court based upon it having regularly conducted business, including the acts complained of herein, within the State of Texas and this judicial district and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this District.

11. Venue is proper in this District under 28 U.S.C. § 1400 because Defendants have committed acts of infringement and has regular and established places of business in this judicial district.

THE PATENT-IN SUIT

12. Songbird is the lawful owner of all right, title, and interest in United States Patent No. 8,825,787 (the “787 Patent”), entitled “Audio message Driven Customer Interaction Queuing System,” including the right to sue and to recover for infringement thereof. The ’787 Patent was duly and legally issued on September 2, 2014.

ACCUSED PRODUCTS

13. On information and belief, Defendants make, use, import, sell, and/or offer for sale a multitude of mobile phone products, including but not limited to: the Galaxy S23, S23+, S23 Ultra, S9+, S22, S22+, S22 Ultra, S21, S21+, S21 Ultra, S20, S20+, S20 Ultra, S20 FE, S10, S10+, S10e, S10 Lite, S8, S8+, S8 Active, A71, A72, A52, A51, A90, A80, A82, A70, A70s, A60, A50, A50s, A8s, A9 2018, A9 Pro, A8 Star, Note20, Note20 Ultra, Note10, Note10+, Note10 Lite, Note9, S9, S9+, Note8, Fold, Z Fold 2, Z Fold 3, Z Flip, Z Flip 5G, Z Flip 3, Tab S8, Tab S8+, Tab S8 Ultra, Tab S7, Tab S7+, Tab S7 Lite, Tab S6, Tab S5e, Tab S4, Tab A 10.5", and Tab Active Pro with the Bixby voice virtual assistant application; the Galaxy S23, S23+, S23 Ultra, S21 Ultra 5G, Galaxy S21 series, Galaxy S22 series, Galaxy Z series, Galaxy A series, and Galaxy Note series with the Google assistant application; the Galaxy S6, Galaxy S2, Galaxy S2 plus, Galaxy S3 (including S3 Mini and S3 Neo), Galaxy S4 (including S4 Active and S4 Mini), Galaxy S5 (including S5 Active, S5 Mini and S5 Neo), Galaxy S6 Edge and S6 Edge++, Galaxy S7 (including S7 Edge and S7 Active), Galaxy Note, Galaxy Note 2, Galaxy Note 3, Galaxy Note 4, Galaxy Note Edge, Galaxy Note 5, Galaxy Note 7, Galaxy Note 8.0, Galaxy Note 10.1, Galaxy A3, Galaxy A5, Galaxy A7, Galaxy A8 and Galaxy A9 with the S Voice Application; the QLED 4K Smart TV, OLED 4K TV, NEO QLED, Crystal 4K UHD Smart TV, and Lifestyle TVs with the Bixby voice virtual assistant, Alexa, and Google Assistant; the Galaxy Watch 4 and Galaxy Watch 5 with the Bixby voice virtual application; the HW-S60A 5.0ch, HW-S801B 3.1.2ch, Q700B 3.1.2ch, HW-S60B 5.0ch, HW-S61B 5.0ch, and S800B 3.1.2ch with Alexa; the Family Hub 4-Door Flex Refrigerator, Bespoke 4-Door French Door, 4-Door French Door, Bespoke 3-Door French Door, 3-Door French Door, 4-

Door Flex, and Smart-Side-by-Side with Bixby voice virtual assistant and Alexa; the Galaxy Book2 Pro (used herein as an exemplary product), Galaxy Book3 series, Galaxy Book2, Galaxy Book2 360, and Galaxy Book2 360 Pro with Bixby voice virtual assistant and the Chromebook 4+ (used herein as an exemplary product), Chromebook Plus, Chromebook 2, and Chromebook with Google Assistant and Cortana (collectively, the “Accused Products”).

14. On information and belief, the Accused Products are made, used, sold, offered for sale, and/or imported in the United States by Defendants.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 8,825,787

15. Songbird repeats and realleges the allegations of each of the above paragraphs as if fully set forth herein.

16. Claim 10 of the ’787 Patent recites:

10. An electronic device of a user, said electronic device comprising:

a non-transitory computer readable storage medium configured to store a client application;

at least one processor communicatively coupled to said non-transitory computer readable storage medium, said at least one processor configured to execute said client application;

at least one input device communicatively coupled to said processor, wherein said input device comprises a microphone; and

said client application configuring said at least one processor to:

locally record an audio query message received through said microphone;

store said recorded audio query message on said electronic device;
and
transmit said stored audio query message.

17. On information and belief, Defendants, without license or authorization, have directly infringed and continue to infringe the '787 Patent by making, using, importing, selling, and/or, offering for sale the Accused Products in the United States.

18. On information and belief, as illustrated below with respect to the Galaxy S23, Defendants' actions satisfy each and every element of claim 10:

10. An electronic device of a user, said electronic device comprising:

The S9+ is an electronic mobile phone and satisfies as the claimed electronic device of a user.

a non-transitory computer readable storage medium configured to store a client application;

The S23 includes system memory that stores applications including the Bixby voice virtual assistant application. This memory satisfies as the claimed non-transitory computer readable storage medium.

at least one processor communicatively coupled to said non-transitory computer readable storage medium, said at least one processor configured to execute said client application;

The S23 includes a microprocessor that executes stored applications including the Bixby voice virtual assistant application. This processor satisfies as the claim processor.

at least one input device communicatively coupled to said processor, wherein said input device comprises a microphone; and

The S23 has a microphone, which satisfies as the claimed input device that comprises a microphone.

said client application configuring said at least one processor to:

The S23 includes the Bixby voice virtual assistant application, which satisfies as the claimed client application.

locally record an audio query message received through said microphone;

The Bixby voice virtual assistant application records audio queries spoken by a user of the device, which satisfies as the claimed client application configured to locally record an audio query message.

store said recorded audio query message on said electronic device; and

The Bixby voice virtual assistant application stores audio queries in memory, which satisfies as the claimed client application configured to store audio query messages.

transmit said stored audio query message.

The Bixby voice virtual assistant application encrypts stored audio to a network server, which satisfies as the claimed client application configured to transmit stored audio query messages.

19. Songbird has been damaged by Defendants' infringing activities.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the Court enter judgment against Defendants:

WHEREFORE, Songbird requests that this Court enter judgment against Defendant as follows:

- A. An adjudication that Defendants have infringed the '787 patent;
- B. An award of damages to be paid by Defendants adequate to compensate Songbird for Defendants' past infringement of the '787 patents and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Songbird's reasonable attorneys' fees; and
- D. An award to Songbird of such further relief at law or in equity as the Court deems just and proper.

JURY DEMAND

Plaintiff demands trial by jury, Under Fed. R. Civ. P. 38.

Dated: July 26, 2023

Respectfully Submitted

/s/ Raymond W. Mort, III

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